

**Executive Summary – Enforcement Matter – Case No. 44971**  
**Richland Dock Works Inc.**  
**RN106477243**  
**Docket No. 2012-1846-AIR-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

AIR

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Cedar Rapids Crusher Serial Number 16858, 5651 South IH-45 East, Corsicana, Navarro County

**Type of Operation:**

Rock crusher

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

**Texas Register Publication Date:** June 7, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$10,000

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$305

**Total Due to General Revenue:** \$9,695

Payment Plan: 35 payments of \$277 each

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - N/A

Site/RN - N/A

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 44971  
Richland Dock Works Inc.  
RN106477243  
Docket No. 2012-1846-AIR-E**

***Investigation Information***

**Complaint Date(s):** June 14, 2012

**Complaint Information:** Alleged that concrete containing asbestos is being processed at the Plant.

**Date(s) of Investigation:** June 25, 2012

**Date(s) of NOE(s):** August 23, 2012

***Violation Information***

Failed to obtain authorization to construct and operate a rock crusher (Serial No. 16858). Specifically, during the June 25, 2012 investigation, the rock crusher was observed to be in operation [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On July 31, 2012, the rock crusher had been dismantled and was collapsed down into storage mode.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Amancio R. Gutierrez, Enforcement Division, Enforcement Team 5, MC 149, (512) 239-3921; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** N/A

**Respondent:** Wayne Powell, President, Richland Dock Works Inc., 5651 South IH-45 East, Corsicana, Texas 75109

**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

<b>DATES</b>	<b>Assigned</b>	20-Aug-2012	<b>Screening</b>	7-Sep-2012	<b>EPA Due</b>	
	<b>PCW</b>	7-Sep-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	Richland Dock Works Inc.		
<b>Reg. Ent. Ref. No.</b>	RN106477243		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	44971	<b>No. of Violations</b>	1
<b>Docket No.</b>	2012-1846-AIR-E	<b>Order Type</b>	1660
<b>Media Program(s)</b>	Air	<b>Government/Non-Profit</b>	No
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Amancio R. Gutierrez
		<b>EC's Team</b>	Enforcement Team 5
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$10,000**

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts: \$25  
Approx. Cost of Compliance: \$5,000  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$10,000**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount** **\$10,000**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$10,000**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended because a mandatory statutory penalty amount is being assessed.

**PAYABLE PENALTY** **\$10,000**

Screening Date 7-Sep-2012

Docket No. 2012-1846-AIR-E

PCW

Respondent Richland Dock Works Inc.

Policy Revision 3 (September 2011)

Case ID No. 44971

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106477243

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 0%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 0%

Screening Date 7-Sep-2012

Docket No. 2012-1846-AIR-E

PCW

Respondent Richland Dock Works Inc.

Policy Revision 3 (September 2011)

Case ID No. 44971

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106477243

Media [Statute] Air

Enf. Coordinator Amancio R. Gutierrez

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 116.110(a) and Tex. Health &amp; Safety Code §§ 382.0518(a) and 382.085(b)

Violation Description Failed to obtain authorization to construct and operate a rock crusher (Serial No. 16858). Specifically, during the June 25, 2012 investigation, the rock crusher was observed to be in operation.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 40.0%

Matrix Notes

The Respondent failed to comply with 100% of the rule requirement. Per Tex. Water Code § 7.052(b), a rock crusher operating without a permit is penalized \$10,000 for each day that a violation occurs.

Adjustment \$15,000

\$10,000

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	x
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$10,000

One daily event is recommended based on the one day the rock crusher was observed operating without a permit.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

Good faith effort is not recommended because a statutory penalty amount is being assessed.

Violation Subtotal \$10,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$25

Violation Final Penalty Total \$10,000

This violation Final Assessed Penalty (adjusted for limits) \$10,000

# Economic Benefit Worksheet

**Respondent** Richland Dock Works Inc.  
**Case ID No.** 44971  
**Reg. Ent. Reference No.** RN106477243  
**Media** Air  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$5,000	25-Jun-2012	31-Jul-2012	0.10	\$25	n/a	\$25
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to shut down the rock crusher and to obtain authorization for the rock crusher. The Date Required is the date of the investigation and the Final Date is the date of compliance period.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,000

**TOTAL** \$25



# Compliance History Report

**PUBLISHED** Compliance History Report for CN604116889, RN106477243, Rating Year 2011 which includes Compliance History (CH) components from September 1, 2006, through August 31, 2011.

**Customer, Respondent, or Owner/Operator:** CN604116889, Richland Dock Works Inc. **Classification:** NOT APPLICABLE **Rating:** N/A

**Regulated Entity:** RN106477243, CEDAR RAPIDS CRUSHER SN 16858 **Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 5651 SOUTH INTERSTATE HIGHWAY 45 EAST, CORSICANA TEXAS NAVARRO, TX, NAVARRO COUNTY

**TCEQ Region:** REGION 04 - DFW METROPLEX

**ID Number(s):**

**AIR QUALITY NON PERMITTED ID NUMBER**  
R04106477243

**Compliance History Period:** September 01, 2006 to August 31, 2011 **Rating Year:** 2011 **Rating Date:** 09/01/2011

**Date Compliance History Report Prepared:** October 09, 2012

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** September 19, 2007 to September 19, 2012

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Amancio R. Gutierrez

**Phone:** (512) 239-3921

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? NO
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

N/A

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

**D. The approval dates of investigations (CCEDS Inv. Track. No.):**

N/A

**E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
RICHLAND DOCK WORKS INC.  
RN106477243**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-1846-AIR-E**

### **I. JURISDICTION AND STIPULATIONS**

On \_\_\_\_\_, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Richland Dock Works Inc. ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owned and operated a rock crusher at 5651 South Interstate Highway 45 East in Corsicana, Navarro County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 28, 2012.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Hundred Five Dollars (\$305) of the administrative penalty. The remaining amount of Nine Thousand Six Hundred Ninety-Five Dollars

(\$9,695) of the administrative penalty shall be payable in 35 monthly payments of Two Hundred Seventy-Seven Dollars (\$277) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that on July 31, 2012, the rock crusher had been dismantled and was collapsed down into storage mode.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As previous owner and operator of the Plant, the Respondent is alleged to have failed to obtain authorization to construct and operate a rock crusher (Serial No. 16858), in violation of 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.0518(a) and 382.085(b), as documented during an investigation conducted on June 25, 2012. Specifically, during the June 25, 2012 investigation, the rock crusher was observed to be in operation.

## **III. DENIALS**

The Respondent generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Richland Dock Works Inc., Docket No. 2012-1846-AIR-E" to:  
  
Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and

may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

Richland Dock Works Inc.  
DOCKET NO. 2012-1846-AIR-E  
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## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*Pam Dawkins*  
For the Executive Director

7/1/13  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*Wayne Powell*  
Signature

3-27-13  
Date

WAYNE POWELL  
Name (Printed or typed)  
Authorized Representative of  
Richland Dock Works Inc.

PRES.  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.